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Desiccare, Inc., a Nevada corporation

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DESICCARE, INC., a Nevada
corporation,

Plaintiff,

vs.

BOVEDA, INC., a Minnesota
corporation, and CHARLES
RUTHERFORD, an individual,

Defendants.

Case No. 2:16-cv-00702

COMPLAINT FOR:

- (1) FALSE ADVERTISING, 15
U.S.C. § 1125(a);**
- (2) FALSE ADVERTISING,
CAL. BUS. & PROF. CODE
§ 17500 *ET SEQ.***
- (3) UNFAIR COMPETITION,
CAL. BUS. & PROF. CODE
§ 17200 *ET SEQ.*;**
- (4) UNFAIR COMPETITION
UNDER CALIFORNIA
COMMON LAW**
- (5) INTENTIONAL
INTERFERENCE WITH
CONTRACTUAL
RELATIONS**
- (6) INTENTIONAL
INTERFERENCE WITH
PROSPECTIVE
ECONOMIC RELATIONS**
- (7) NEGLIGENT
INTERFERENCE WITH
PROSPECTIVE
ECONOMIC RELATIONS**

DEMAND FOR JURY TRIAL

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1 For its Complaint against Defendants Boveda Inc. (“Boveda”) and Charles
2 Rutherford (“Rutherford”) (collectively “Defendants”), Plaintiff Desiccare, Inc.
3 (“Desiccare”) alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This is an action for false advertising in violation of 15 U.S.C.
6 Section 1125(a) and Cal. Bus. & Prof. Code Sections 17500 *et seq.*, unfair
7 competition under Cal. Bus. & Prof. Code Sections 17200 *et seq.* and the
8 common law of California, and intentional interference with contractual relations,
9 intentional interference with prospective economic relations, and negligent
10 interference with prospective economic relations under California law. This
11 Court has subject matter jurisdiction pursuant to at least 15 U.S.C. Section
12 1121(a), 28 U.S.C. Section 1367, and 28 U.S.C. Section 1332(a).

13 2. This Court has personal jurisdiction over Defendants because
14 Defendants have conducted systematic and continuous business within California
15 and because they have directed their unlawful business activities towards
16 California, interfered with business relationships within California and within this
17 District, and have caused injury to a corporation conducting systematic and
18 continuous business within California.

19 3. Venue is proper under at least 28 U.S.C. Section 1391(b)(3).

20 **PARTIES**

21 4. Desiccare is a company organized under the laws of Nevada and
22 maintains offices in California. Desiccare is headquartered in Reno, Nevada.

23 5. On information and belief, Defendant Boveda is a company
24 organized under the laws of Minnesota and is located at 17613 Minnetonka Blvd.,
25 Wayzata, Minnesota, 55391.

26 6. On information and belief, Defendant Rutherford is an individual
27 and resident of Minneapolis, Minnesota.
28

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1 **FACTUAL BACKGROUND**

2 7. Desiccare is a manufacturer and distributor of high quality moisture
3 products, including desiccants, humectants, and oxygen absorbers. Desiccare
4 regularly develops new and improved moisture control products and sells its array
5 of products throughout the United States, including in this District, and the rest of
6 the world. Desiccare sells its products to third party distributors and directly to
7 customers for both personal and commercial use.

8 8. For many years, Desiccare has provided high quality moisture
9 products and has developed a strong reputation in the industry. Desiccare's
10 products have received acclaim in the industry. Desiccare has been careful,
11 skillful, and diligent in the conduct of its business and has maintained uniform
12 standards of high quality in its goods and products.

13 9. Desiccare sells and markets its moisture products through various
14 trade channels, including trade shows. At these trade shows, Desiccare
15 demonstrates its various products and Desiccare's representatives interact with
16 prospective and current business relations. Desiccare typically develops business
17 relations through developing contacts at these trade shows, and many suppliers,
18 distributors, and manufacturers attend these trade shows. Desiccare's products
19 are often demonstrated at these trade shows at booths operated Desiccare as well
20 as at booths operated by Desiccare's business relations.

21 10. Desiccare strives to develop new and improved methods of
22 providing moisture control systems. Desiccare is the owner of United States
23 Patent Nos. 6,977,589, 8,048,201, 6,977,589, and 6,716,276 directed to moisture
24 control systems, with multiple provisional patents pending before the United
25 States Patent and Trademark Office. One of these pending provisional patents is
26 directed to a humectant system.

27 11. Desiccare owns the brand INTEGRA™, which it uses in association
28 with its INTEGRA™ humectant system and INTEGRA™ BOOST™ humectant

1 system (collectively, “INTEGRA™ humectant system”). The INTEGRA™
2 humectant system adsorbs and releases moisture by regulating humidity at a
3 preselected relative humidity. The INTEGRA™ humectant system allows for
4 humidity control inside curing and storing containers. As is common in the
5 industry, the INTEGRA™ humectant system is not designed to provide such
6 performance characteristics indefinitely, and is often accompanied by a humidity
7 indicating card which indicates to a user when the INTEGRA™ humectant
8 system should be replaced. The rate at which the INTEGRA™ humectant system
9 adsorbs and releases moisture impacts the lifespan of the INTEGRA™ humectant
10 system.

11 12. The INTEGRA™ humectant system includes carefully apportioned
12 quantities of miscible glycerin, water, and a gelling agent. The three components
13 together provide humidity control.

14 13. Desiccare recently introduced the INTEGRA™ humectant system.
15 Accordingly, Desiccare has already entered into various contractual agreements
16 with distributors and suppliers of products requiring humidity control, and is
17 actively working to establish business relationships with other potential customers
18 in the industry. These customers and potential customers often attend the same
19 trade shows that Desiccare attends.

20 14. On information and belief, on or about November 17, 2015,
21 Defendant Rutherford, as an agent of Boveda, contacted one of Desiccare’s
22 INTEGRA™ humectant system customers (the “California Customer”) located
23 within the Central District of California, via email (the “Rutherford email”),
24 attacking the quality of Desiccare’s INTEGRA™ humectant system,
25 notwithstanding and with full knowledge of Desiccare’s business and contractual
26 relationship with the California Customer. A copy of the Rutherford email is
27 attached as Exhibit A.
28

1 15. On information and belief, on or around December 23, 2015,
2 Defendant Boveda made available to the public a video titled “Boveda vs.
3 Desiccare Integra Boost” (the “YouTube video”), available at
4 <<http://www.youtube.com/watch?v=fCvsdlmuMgw>>. A screenshot of the
5 webpage available at <<http://www.youtube.com/watch?v=fCvsdlmuMgw>> is
6 attached as Exhibit B.

7 16. On information and belief, on or around December 23, 2015,
8 Defendant Boveda contacted a distributor of humectants and desiccants located
9 within the Central District of California (the “California Distributor”), via email
10 (the “Boveda email”), attacking the quality of Desiccare’s INTEGRA™
11 humectant system, notwithstanding and with full knowledge of Desiccare’s
12 prospective business relationship with the California Distributor, and with intent
13 to disrupt Desiccare’s prospective business relationship with the California
14 Distributor. A copy of the Boveda email is attached as Exhibit C.

15 17. On information and belief, on or around December 23, 2015,
16 Defendant Boveda made available to the public a weblog post titled “VIDEO:
17 Boveda vs. Desiccare Integra Boost,” available at
18 <http://www.bovedainc.com/video-boveda-vs-desiccare-integra-boost/> (the
19 “weblog post”). A screenshot of the weblog post is attached as Exhibit D.

20 18. On information and belief, through transmission of at least the
21 Rutherford email, the YouTube video, the Boveda email, and the weblog post
22 (collectively the “Communications”), Defendants disseminate false, disparaging,
23 and deliberately misleading statements about Desiccare and Desiccare’s
24 INTEGRA™ humectant system. Further, Defendants have disseminated these
25 false, disparaging, and deliberately misleading statements in connection with
26 advertising Boveda’s competing products.

27 19. By way of example, Defendants claim that, with regard to use of the
28

1 INTEGRA™ humectant system, “[i]t’s going to be a very painful and expensive
2 lesson for any cultivators/processors/customers/patients expecting moisture
3 control” (emphasis added). This statement is demonstrably false and
4 misrepresents the nature and qualities of Desiccare’s products. It suggests that
5 Desiccare’s products do not provide moisture control, when in fact they do.

6 20. As yet another example, Defendants claim that “[Desiccare’s
7 INTEGRA™ humectant system is] being sold as Boveda by another name”
8 (emphasis added). This is demonstrably false. Desiccare does not use the
9 Boveda name in any way in its advertising and promotion of its products.

10 21. As yet another example, Defendants claim that Desiccare’s
11 INTEGRA™ humectant system “just has glycerin and water” (emphasis added).
12 This is demonstrably false and misleading. The INTEGRA™ humectant system
13 includes carefully apportioned quantities of miscible glycerin, water, and a
14 gelling agent such as gelatin. The three components together provide humidity
15 control.

16 22. As yet another example, Defendants claim that “[Boveda’s product]
17 can absorb, it can release and it’s still going to stay 62% so you cure as long as
18 you want and it will still be 62% in there and you will come back to perfectly
19 cured gorgeous cannabis. On the other hand, if you threw in [Desiccare’s
20 INTEGRA™ humectant system] with a pound of cannabis, expecting it to add
21 or remove moisture and maintain a specific level, that is not what will happen”
22 (emphasis added). This statement is deliberately misleading and misrepresents
23 the nature and qualities of Desiccare’s products. It suggests that Desiccare’s
24 products do not maintain relative humidity levels when in fact Desiccare’s
25 products maintain relative humidity levels under typical operating conditions.

26 23. As yet another example, Defendants claim that “[Desiccare’s
27 INTEGRA™ humectant system] will either give off some moisture and
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1 *completely drop or absorb a little moisture and go sky high*” (emphasis added).
2 This statement is deliberately misleading and misrepresents the nature and
3 qualities of Desiccare’s products. It suggests that Desiccare’s products do not
4 maintain relative humidity levels when in fact Desiccare’s products maintain
5 relative humidity levels under typical operating conditions.

6 24. As yet another example, Defendants claim that “[customers wi]ll
7 *find a very very expensive and time consuming lesson once [the customers]*
8 *come back to something that [they] have tried to cure with [Desiccare’s*
9 *INTEGRA™ humectant system]”* (emphasis added). This statement is
10 deliberately misleading and suggests that Desiccare’s products do not maintain
11 relative humidity levels when in fact Desiccare’s products maintain relative
12 humidity levels under typical operating conditions.

13 25. As yet another example, Defendants claim that “[Desiccare]
14 *allude[s] to the fact that you cannot count on “[the INTEGRA™ humectant*
15 *system] being a stable humidity level because their packaging says actual*
16 *humidity levels may fluctuate due to environmental changes”* (emphasis added).
17 Desiccare, however, has not sold any product containing such statements on the
18 packaging.

19 26. As yet another example, Defendants claim that “[Desiccare’s
20 *INTEGRA™ humectant system] film was tested [by Boveda] and [the*
21 *INTEGRA™ humectant system] film transfers water vapor in and out 6 times*
22 *slower than Boveda. So what that means is that if you’ve just started using this,*
23 *it might not be too late to get it out of there before you end up learning a*
24 *painful lesson”* (emphasis added). To Desiccare’s knowledge, Defendants have
25 not disclosed any purported test results, but based on Desiccare’s internal testing,
26 Defendants’ claims are not accurate and are not supported by fact.

27 27. As yet another example, Defendant Boveda claims that “*the*
28

1 *[INTEGRA™ humectant system] transfers water vapor about 6 times more*
 2 *slowly than Boveda, so it may not be too late to keep growers, packagers,*
 3 *dispensaries and end users from learning an expensive and painful lesson”*
 4 (emphasis added). Again, to Desiccare’s knowledge, Defendants have not
 5 disclosed any purported test results, but based on Desiccare’s internal testing,
 6 Defendants’ claims are not accurate and are not supported by fact.

7 28. As yet another example, Defendant Boveda alleges that, with regard
 8 to use of the INTEGRA™ humectant system, “*[the] 55 and 62 [relative humidity*
 9 *designations] are starting points, not the RH it will maintain under the same*
 10 *conditions where Boveda shines”* (emphasis added). This statement is
 11 deliberately misleading and suggests that Desiccare’s products do not maintain
 12 relative humidity levels when in fact Desiccare’s products maintain relative
 13 humidity levels under typical operating conditions.

14 **FIRST CLAIM FOR RELIEF**

15 **False Advertising, 15 U.S.C. § 1125(a) Asserted By**

16 **Plaintiff Against All Defendants**

17 29. Desiccare hereby repeats and realleges paragraphs 7 through 28 of
 18 the Complaint.

19 30. Defendants’ false and misleading statements, outlined in part in
 20 Paragraphs 18 through 28, constitute false advertising in violation of 15 U.S.C.
 21 Section 1125(a).

22 31. Desiccare has been damaged and is likely to be damaged in the
 23 future by Defendants’ false advertising by reason of diversion of prospective
 24 purchasers and purchasers of Desiccare products under false pretenses.

25 32. Defendant Boveda has unfairly profited from the false advertising
 26 alleged herein and will be unjustly enriched in the future unless and until such
 27 conduct is permanently enjoined.

28 33. By reason of Defendants’ false advertising alleged herein, Desiccare

1 has suffered damages including but not limited to damages to its business
2 goodwill.

3 34. By reason of Defendants' false advertising alleged herein, Desiccare
4 has suffered and will suffer irreparable harm in the future unless and until
5 Defendants' conduct is permanently enjoined.

6 35. Defendants' false advertising alleged herein was and is willful and
7 committed in conscious disregard of Desiccare's rights.

8 36. This is an exceptional case and Desiccare is entitled to an award of
9 its attorneys' fees, costs, and any other recoverable expenses.

10 **SECOND CLAIM FOR RELIEF**

11 **State Statutory False Advertising Asserted by**
12 **Plaintiff Against All Defendants**

13 37. Desiccare hereby repeats and realleges paragraphs 7 through 36 of its
14 Complaint.

15 38. The Court has jurisdiction over this Claim pursuant to 27 U.S.C.
16 Section 1367.

17 39. Defendants' false and misleading statements, outlined in part in
18 Paragraphs 18 through 28, constitutes false advertising in violation of California
19 Business & Professions Code Section 17500 *et seq.*

20 40. On information and belief, Defendants began and continued their
21 false advertising with complete disregard of Desiccare's rights and with the intent
22 to defraud the public.

23 41. Desiccare has been damaged and is likely to be damaged in the
24 future by Defendants' false advertising by reason of diversion of prospective
25 purchasers and purchasers of Desiccare's Products under false pretenses.

26 42. Defendant Boveda has unfairly profited from the false advertising
27 alleged herein and will continue to be unjustly enriched in the future unless and
28 until such conduct is permanently enjoined.

43. By reason of Defendants' false advertising alleged herein, Desiccare has suffered damages including but not limited to damage to its business goodwill.

44. By reason of Defendants' false advertising alleged herein, Desiccare has suffered and will suffer irreparable harm in the future unless and until Defendants' conduct is permanently enjoined.

45. Because of Defendant's acts complained of herein, Desiccare has been actually damaged and suffered irreparable harm, and will continue to suffer irreparable harm, and Defendant Boveda has been unjustly enriched and will continue to be unjustly enriched, which damage, irreparable harm and unjust enrichment will continue until enjoined by order of this Court.

THIRD CLAIM FOR RELIEF

State Statutory Unfair Competition Asserted by

Plaintiff Against All Defendants

46. Desiccare hereby repeats and realleges paragraphs 7 through 45 of the Complaint.

47. The Court has jurisdiction over this Claim pursuant to 27 U.S.C. Section 1367.

48. Defendants' false and misleading statements, outlined in part in Paragraphs 18 through 28, in conjunction with Defendants' marketing, advertising, and sale of products as complained of herein, including statements about the quality of Desiccare's products, is likely to, and on information and belief is intended to, unfairly compete with Desiccare.

49. By the acts complained of herein, Defendant has engaged in unfair competition as contemplated under Cal. Bus. & Prof. Code Sections 17200 *et seq.*

50. Because of Defendants' acts complained of herein, Desiccare has been actually damaged and suffered irreparable harm, and will continue to suffer irreparable harm, and Defendants have been unjustly enriched and will continue

1 to be unjustly enriched, which damage, irreparable harm and unjust enrichment
2 will continue until enjoined by order of this Court.

3 **FOURTH CLAIM FOR RELIEF**

4 **State Common Law Unfair Competition Asserted by**
5 **Plaintiff Against All Defendants**

6 51. Desiccare hereby repeats and realleges paragraphs 7 through 50 of its
7 Complaint.

8 52. The Court has jurisdiction over this Claim pursuant to 27 U.S.C.
9 Section 1367.

10 53. By their acts complained of herein, Defendants have engaged in
11 unfair competition under the common law of the State of California.

12 54. Desiccare is informed and believes, and thereon alleges that the acts
13 of Defendants complained of herein were undertaken willfully and with the
14 intention of causing mistake and deception.

15 55. Because of Defendants' acts complained of herein, Desiccare has
16 suffered and will continue to suffer irreparable harm, and Defendants have
17 unfairly profited and will continue to be unjustly enriched, to an extent not
18 presently ascertained, which irreparable harm and unjust enrichment will continue
19 unless enjoined by order of this Court.

20 56. Defendants' conduct is and has been intentional, willful, malicious,
21 oppressive, and in reckless disregard of Desiccare's rights, entitling Desiccare to
22 an award of punitive damages.

23 **FIFTH CLAIM FOR RELIEF**

24 **Intentional Interference with Contractual Relations Asserted by**
25 **Plaintiff Against All Defendants**

26 57. Desiccare hereby repeats and realleges paragraphs 7 through 56 of its
27 Complaint.

28 58. The Court has jurisdiction over this Claim pursuant to 27 U.S.C.

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1 Section 1367.

2 59. Desiccare entered into an agreement with a California Customer to
3 supply Desiccare humidity control products, including Desiccare's INTEGRA™
4 humectant system.

5 60. On information and belief, Defendants knew of the contract between
6 the California Customer and Desiccare and knew that the California Customer
7 uses Desiccare's INTEGRA™ humectant system in association with the
8 California Customer's products.

9 61. On information and belief, Defendants intended to disrupt
10 performance of the contract, in California, between Desiccare and the California
11 Customer, through wrongful acts including engaging in misrepresentation and
12 false advertising.

13 62. As a proximate cause of the unlawful behavior by Defendants, on
14 information and belief, Defendants' conduct made performance of the contract
15 between Desiccare and the California Customer more expensive and more
16 difficult.

17 63. As a result of Defendants' conduct, Desiccare has been damaged by
18 loss of sales to the California Customer's customers and by additional
19 expenditures related to providing quality assurances to the California Customer.

20 64. The interference by Defendants was done intentionally, willfully and
21 in conscious disregard of Desiccare's rights and, therefore, Desiccare is entitled to
22 exemplary or punitive damages in an amount appropriate to punish Defendants
23 and to make an example of Defendants to the community.

24 **SIXTH CLAIM FOR RELIEF**

25 **Intentional Interference with Prospective Economic Advantage Asserted by**
26 **Plaintiff Against All Defendants**

27 65. Desiccare hereby repeats and realleges paragraphs 7 through 64 of its
28 Complaint.

1 66. The Court has jurisdiction over this Claim pursuant to 27 U.S.C.
2 Section 1367.

3 67. Desiccare maintains relationships with prospective customers, who
4 in the future may purchase Desiccare's products, including Desiccare's
5 INTEGRA™ humectant system. These relationships are likely to provide future
6 economic benefit to Desiccare by way of sales of products.

7 68. On information and belief, Defendants knew of Desiccare's potential
8 relationships with prospective customers.

9 69. On information and belief, Defendants have knowingly and
10 intentionally interfered with Desiccare's prospective customers by providing
11 online video content available at www.YouTube.com and www.Bovedainc.com
12 and by emailing prospective customers and making false, misleading, and
13 disparaging statements as to the quality and performance of Desiccare's products.
14 Representative examples are included in Paragraphs 19-28 of the Complaint.

15 70. Defendants' conduct is unlawful. Further, Defendants' conduct
16 constitutes misrepresentation to the prospective customers.

17 71. On information and belief, Defendants knew that such interference
18 was certain or substantially certain to occur as a result of Defendants' actions set
19 forth herein.

20 72. Defendants' false statements have disrupted and interfered with, and
21 will continue to disrupt and interfere with, Desiccare's ability to obtain new
22 contractual obligations to sell and distribute its humidity control systems.

23 73. As a result of Defendants' intentional interference with Desiccare's
24 prospective economic advantage, Desiccare has been damaged in an amount to be
25 determined at trial.

26 74. As a result of Defendants' intentional interference with Desiccare's
27 prospective economic advantage, Desiccare has been irreparably harmed and, if
28 Defendants are not enjoined from continuing to make such false statements and

1 from maintaining publication of the previously published false statements,
2 Desiccare will continue to be irreparably harmed.

3 75. As a result of Defendants' intentional interference with Desiccare's
4 prospective economic advantage, Desiccare's remedy at law is not adequate to
5 compensate it for the injuries inflicted. Accordingly, Desiccare is entitled to
6 entry of injunctive relief.

7 76. Defendants' intentional interference with Desiccare's prospective
8 economic advantage was done with oppression, malice, and fraud, and undertaken
9 with conscious disregard for the rights of others, including Desiccare. Therefore,
10 Desiccare is entitled to an award of punitive and exemplary damages against
11 Defendants.

12 **SEVENTH CLAIM FOR RELIEF**

13 **Negligent Interference with Prospective Economic Relations Asserted by** 14 **Plaintiff Against All Defendants**

15 77. Desiccare hereby repeats and realleges paragraphs 7 through 76 of its
16 Complaint.

17 78. The Court has jurisdiction over this Claim pursuant to 27 U.S.C.
18 Section 1367.

19 79. Desiccare maintains relationships with prospective customers, who
20 in the future may purchase Desiccare's products, including Desiccare's
21 INTEGRA™ humectant system. These relationships are likely to provide future
22 economic benefit to Desiccare.

23 80. On information and belief, Defendants knew of Desiccare's potential
24 relationships with prospective customers.

25 81. On information and belief, Defendants knew, or should have known,
26 that the relationship between Desiccare and Desiccare's potential customers
27 would be disrupted if Defendants failed to act with reasonable care in presenting
28 information about Desiccare's products.

1 82. Defendants fail to act with reasonable care by providing false and
2 misleading statements about Desiccare's products, as alleged herein. For
3 example, by providing online video content available at www.YouTube.com and
4 www.Bovedainc.com and by emailing prospective customers and making false,
5 misleading, and disparaging statements with regard to Desiccare's products.
6 Representative examples are included in Paragraphs 19-28 of the Complaint.

7 83. Defendants knew or should have known that such conduct would
8 interfere with Desiccare's prospective customers. Defendants' conduct is
9 unlawful. Further, Defendants' conduct constitutes misrepresentation to the
10 prospective customers.

11 84. Defendants' false, misleading, and disparaging statements have
12 disrupted and interfered with, and will continue to disrupt and interfere with,
13 Desiccare's ability to sell and distribute its humidity control systems.

14 85. As a result of Defendants' interference with Desiccare's prospective
15 economic advantage, Desiccare has been damaged in an amount to be determined
16 at trial.

17 86. As a result of Defendants' interference with Desiccare's prospective
18 economic advantage, Desiccare has been irreparably harmed and, if Defendants
19 are not enjoined from continuing to make such false statements and from
20 maintaining publication of the previously published false statements, Desiccare
21 will continue to be irreparably harmed.

22 87. As a result of Defendants' interference with Desiccare's prospective
23 economic advantage, Desiccare's remedy at law is not adequate to compensate it
24 for the injuries inflicted. Accordingly, Desiccare is entitled to injunctive relief.

25 88. Defendants' interference with Desiccare's prospective economic
26 advantage was done with oppression, malice, and fraud, and undertaken with
27 conscious disregard for the rights of others, including Desiccare. Therefore,
28 Desiccare is entitled to an award of punitive and exemplary damages against

Defendants.

PRAYER

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

1. For a temporary and permanent injunction prohibiting Defendants from further falsely advertising and engaging in unfair competition pursuant to at least 15 U.S.C. Section 1125, Cal. Bus. & Prof. Code Sections 17200 *et seq.* and 17500 *et seq.*; and from making any further false or disparaging statements regarding Desiccare or Desiccare's products;

2. For damages in excess of \$75,000, according to proof;

3. For corrective advertising;

4. For disgorgement of profits and restitution;

5. For punitive damages;

6. For prejudgment interest on all damages pursuant to 15 U.S.C. Section 1117(b), under California law, and any other applicable basis;

7. For all of Plaintiff's costs and expenses of this Action, including attorneys' fees; and

8. For such other or further relief as the Court may deem just and proper.

DATED: February 1, 2016

Respectfully submitted,

LEWIS ROCA ROTHGERBER
CHRISTIE LLP

By /s/ Gary J. Nelson

Gary J. Nelson
G. Warren Bleeker

Attorneys for Plaintiff,
Desiccare, Inc.

DEMAND FOR JURY TRIAL

Plaintiff Desiccare, Inc., pursuant to Federal Rule of Civil Procedure 38,
hereby demands a trial by jury of all issues so triable.

DATED: February 1, 2016

Respectfully submitted,

LEWIS ROCA ROTHGERBER
CHRISTIE, LLP

By /s/ Gary J. Nelson

Gary J. Nelson
G. Warren Bleeker

Attorneys for Plaintiff,
Desiccare, Inc.

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